

**Invitation to Comment**

Title	Civil Forms: <i>Request for Entry of Default</i> and <i>Request for Dismissal</i> (revise forms CIV-100 and CIV-110)
Summary	The Judicial Council forms for requests for dismissal and requests to enter defaults would be revised to include the dates and location of pending hearing or trial dates. This change will help the court prioritize work in the clerks’ offices.
Source	Civil and Small Claims Advisory Committee Hon. Lee Smalley Edmon, Chair
Staff	Anne M. Ronan, Case Management Subcommittee Counsel, 415-865-8933, anne.ronan@jud.ca.gov
Discussion	<p>The proposal revises <i>Request for Entry of Default</i> (form CIV-100); and <i>Request for Dismissal</i> (form CIV-110), by providing a space for litigants to enter the date of the next court appearance scheduled in the matter and the department in which it is to be held, or the information that no further appearance has been set.</p> <p>The inclusion of this information on these forms will help court administrators to prioritize work within the clerks’ offices so that matters that may affect scheduled hearings are handled promptly. The ability of the clerk’s office to enter defaults and dismissals without delay in those actions in which court appearances are imminent will help to streamline court calendars.</p> <p>The revisions to forms CIV-100 and CIV-110 consist of adding text stating that “The next scheduled court appearance in this matter is,” followed by the options of “none set” or “set on (<i>date</i>) ____ in Dept. ____.” The new text, identical in both forms, is added as new item 3 in form CIV-100 and new item 2 in form CIV-110.</p> <p>The committee seeks comments on whether the inclusion of this date is problematic for the courts, particularly in regards to self-represented litigants.</p> <p>On both forms, the numbers of the items following new item 2 have been revised. On form CIV-110, the numbers of the items to be completed by the clerk, items 4 and 5 on the revised form, have been reorganized to make the form easier for the clerk to complete.</p>

Form CIV-110 has also been revised to conform to current Judicial Council form standards. The attorney/party information box (top left box) has been revised to include spaces for an e-mail address and a fax number. The county and court address box (second left box) has been revised to conform to the current form style.

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Attachments

ATTORNEY OR PARTY WITHOUT ATTORNEY ( <i>Name, State Bar number, and address</i> ):  TELEPHONE NO.: _____ FAX NO. ( <i>Optional</i> ): _____ E-MAIL ADDRESS ( <i>Optional</i> ): _____ ATTORNEY FOR ( <i>Name</i> ): _____	<b>FOR COURT USE ONLY</b>  <b>DRAFT v.4</b> <b>04/11/08</b>  <b>not approved by</b> <b>Judicial Council</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF/PETITIONER:  DEFENDANT/RESPONDENT:	
<b>REQUEST FOR (Application)</b> <input type="checkbox"/> <b>Entry of Default</b> <input type="checkbox"/> <b>Clerk's Judgment</b> <input type="checkbox"/> <b>Court Judgment</b>	CASE NUMBER: _____

1. TO THE CLERK: On the complaint or cross-complaint filed
- a. on (*date*): \_\_\_\_\_ b. by (*name*): \_\_\_\_\_
- c.  Enter default of defendant (*names*): \_\_\_\_\_
- d.  I request a court judgment under Code of Civil Procedure sections 585(b), 585(c), 989, etc., against defendant (*names*): \_\_\_\_\_

(*Testimony required. Apply to the clerk for a hearing date, unless the court will enter a judgment on an affidavit under Code Civ. Proc., § 585(d).*)

- e.  Enter clerk's judgment
- (1)  for restitution of the premises only and issue a writ of execution on the judgment. Code of Civil Procedure section 1174(c) does not apply. (Code Civ. Proc., § 1169.)
- Include in the judgment all tenants, subtenants, named claimants, and other occupants of the premises. The *Prejudgment Claim of Right to Possession* was served in compliance with Code of Civil Procedure section 415.46.
- (2)  under Code of Civil Procedure section 585(a). (*Complete the declaration under Code Civ. Proc., § 585.5 on the reverse (item 6).*)
- (3)  for default previously entered on (*date*): \_\_\_\_\_

2. **Judgment to be entered.**

	<u>Amount</u>		<u>Credits acknowledged</u>	<u>Balance</u>
a. Demand of complaint .....	\$		\$	\$
b. Statement of damages *				
(1) Special .....	\$		\$	\$
(2) General .....	\$		\$	\$
c. Interest .....	\$		\$	\$
d. Costs ( <i>see reverse</i> ) .....	\$		\$	\$
e. Attorney fees .....	\$		\$	\$
f. <b>TOTALS</b> .....	\$		\$	\$

g. **Daily damages** were demanded in complaint at the rate of: \$ \_\_\_\_\_ per day beginning (*date*): \_\_\_\_\_  
 (\* *Personal injury or wrongful death actions; Code Civ. Proc., § 425.11.*)

3. The next scheduled court appearance in this matter is:  none set  set on (*date*): \_\_\_\_\_ in Dept.: \_\_\_\_\_

4.  (Check if filed in an unlawful detainer case) **Legal document assistant or unlawful detainer assistant** information is on the reverse (*complete item 5*).

Date: \_\_\_\_\_

\_\_\_\_\_  
 (TYPE OR PRINT NAME)

\_\_\_\_\_  
 (SIGNATURE OF PLAINTIFF OR ATTORNEY FOR PLAINTIFF)

<b>FOR COURT USE ONLY</b>	(1) <input type="checkbox"/> Default entered as requested on ( <i>date</i> ): (2) <input type="checkbox"/> Default NOT entered as requested ( <i>state reason</i> ):	Clerk, by _____, Deputy
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PLAINTIFF/PETITIONER:  DEFENDANT/RESPONDENT:	CASE NUMBER:
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5. **Legal document assistant or unlawful detainer assistant (Bus. & Prof. Code, § 6400 et seq.).** A legal document assistant or unlawful detainer assistant  did  did **not** for compensation give advice or assistance with this form. (If declarant has received **any** help or advice for pay from a legal document assistant or unlawful detainer assistant, state):

- |  |                            |
|--|----------------------------|
| a. Assistant's name:                   | c. Telephone no.:          |
| b. Street address, city, and zip code: | d. County of registration: |
|  | e. Registration no.:       |
|  | f. Expires on (date):      |

6.  **Declaration under Code of Civil Procedure Section 585.5** (required for entry of default under Code Civ. Proc., § 585(a)).

This action

- a.  is  is not on a contract or installment sale for goods or services subject to Civ. Code, § 1801 et seq. (Unruh Act).  
 b.  is  is not on a conditional sales contract subject to Civ. Code, § 2981 et seq. (Rees-Levering Motor Vehicle Sales and Finance Act).  
 c.  is  is not on an obligation for goods, services, loans, or extensions of credit subject to Code Civ. Proc., § 395(b).

7. **Declaration of mailing (Code Civ. Proc., § 587).** A copy of this *Request for Entry of Default* was

- a.  **not mailed** to the following defendants, whose addresses are **unknown** to plaintiff or plaintiff's attorney (*names*):  
 b.  **mailed** first-class, postage prepaid, in a sealed envelope addressed to each defendant's attorney of record or, if none, to each defendant's last known address as follows:  
     (1) Mailed on (date): \_\_\_\_\_ (2) To (*specify names and addresses shown on the envelopes*): \_\_\_\_\_

I declare under penalty of perjury under the laws of the State of California that the foregoing items 5, 6, and 7 are true and correct.

Date: \_\_\_\_\_

(TYPE OR PRINT NAME)	(SIGNATURE OF DECLARANT)
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8. **Memorandum of costs** (required if money judgment requested). Costs and disbursements are as follows (Code Civ. Proc., § 1033.5):

- |                                    |          |
|------------------------------------|----------|
| a. Clerk's filing fees .....       | \$       |
| b. Process server's fees .....     | \$       |
| c. Other ( <i>specify</i> ): ..... | \$       |
| d. ....                            | \$       |
| e. <b>TOTAL</b> .....              | \$ _____ |

f.  Costs and disbursements are waived.

9. I am the attorney, agent, or party who claims these costs. To the best of my knowledge and belief this memorandum of costs is correct and these costs were necessarily incurred in this case.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: \_\_\_\_\_

(TYPE OR PRINT NAME)	(SIGNATURE OF DECLARANT)
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9.  **Declaration of nonmilitary status** (required for a judgment). No defendant named in item 1c of the application is in the military service so as to be entitled to the benefits of the Servicemembers Civil Relief Act (50 U.S.C. App. § 501 et seq.).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: \_\_\_\_\_

(TYPE OR PRINT NAME)	(SIGNATURE OF DECLARANT)
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ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):   TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	<b>FOR COURT USE ONLY</b>  <b>DRAFT v.4</b> <b>04/15/08</b>  <b>not approved by</b> <b>Judicial Council</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	
<input type="checkbox"/> <b>REQUEST FOR DISMISSAL</b> <input type="checkbox"/> <b>Personal Injury, Property Damage, or Wrongful Death</b> <input type="checkbox"/> <b>Motor Vehicle</b> <input type="checkbox"/> <b>Other</b> <input type="checkbox"/> <b>Family Law</b> <input type="checkbox"/> <b>Eminent Domain</b> <input type="checkbox"/> <b>Other (specify) :</b>	CASE NUMBER:
<b>A conformed copy will not be returned by the clerk unless a method of return is provided with the document.</b>	

1. TO THE CLERK: Please **dismiss** this action as follows:
- a. (1)  With prejudice    (2)  Without prejudice
  - b. (1)  Complaint            (2)  Petition
  - (3)  Cross-complaint filed by (name): \_\_\_\_\_ on (date): \_\_\_\_\_
  - (4)  Cross-complaint filed by (name): \_\_\_\_\_ on (date): \_\_\_\_\_
  - (5)  Entire action of all parties and all causes of action
  - (6)  Other (specify):\*

2. The next scheduled court appearance in this matter is:  none set     set on (date): \_\_\_\_\_ in Dept.: \_\_\_\_\_

Date: \_\_\_\_\_

(TYPE OR PRINT NAME OF  ATTORNEY  PARTY WITHOUT ATTORNEY) \_\_\_\_\_ (SIGNATURE)

Attorney or party without attorney for:  
 Plaintiff/Petitioner             Defendant/Respondent  
 Cross - complainant

\*If dismissal requested is of specified parties only of specified causes of action only, or of specified cross-complaints only, so state and identify the parties, causes of action, or cross-complaints to be dismissed.

3. TO THE CLERK: Consent to the above dismissal is hereby given.\*\*

Date: \_\_\_\_\_

(TYPE OR PRINT NAME OF  ATTORNEY  PARTY WITHOUT ATTORNEY) \_\_\_\_\_ (SIGNATURE)

Attorney or party without attorney for:  
 Plaintiff/Petitioner             Defendant/Respondent  
 Cross-complainant

\*\* If a cross-complaint or Response (Family Law) seeking affirmative relief is on file, the attorney for cross-complainant (respondent) must sign this consent if required by Code of Civil Procedure section 581(i) or (j).

**(To be completed by clerk)**

4. a.  Dismissal entered as requested on (date): \_\_\_\_\_
- b.  Dismissal entered on (date): \_\_\_\_\_ as to only (name): \_\_\_\_\_
- c.  Dismissal **not entered** as requested for the following reasons (specify): \_\_\_\_\_

5. a.  Attorney or party without attorney notified on (date): \_\_\_\_\_
- b.  Attorney or party without attorney not notified. Filing party failed to provide  
 a copy to be conformed     means to return conformed copy

Date: \_\_\_\_\_ Clerk, by \_\_\_\_\_, Deputy

## Item SPR08-16 Response Form

**Title:** Civil Form: Request for Entry of Default and Request for Dismissal (revise forms CIV-100 and CIV-110)

- Agree with proposed changes
- Agree with proposed changes **if modified**
- Do not agree with proposed changes

Comments: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Name:** \_\_\_\_\_ **Title:** \_\_\_\_\_

**Organization:** \_\_\_\_\_

- Commenting on behalf of an organization

**Address:** \_\_\_\_\_

**City, State, Zip:** \_\_\_\_\_

### **To Submit Comments**

Comments may be written on this form, prepared in a letter format, or submitted online. If you are *not* commenting directly on this form, please include the information requested above and the proposal number for identification purposes. Please submit your comments online or email, mail, or fax comments.

**Internet:** [www.courtinfo.ca.gov/invitationstocomment](http://www.courtinfo.ca.gov/invitationstocomment)

**Email:** [invitations@jud.ca.gov](mailto:invitations@jud.ca.gov)

**Mail:** Ms. Camilla Kieliger  
Judicial Council, 455 Golden Gate Avenue  
San Francisco, CA 94102

**Fax:** (415) 865-7664, Attn: Camilla Kieliger

**DEADLINE FOR COMMENT: 5:00 p.m., Friday, June 20, 2008**

*Circulation for comment does not imply endorsement by the Judicial Council  
or the Rules and Projects Committee.  
All comments will become part of the public record of the council's action.*